IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SECOND DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION Nos: 23122, 23123 and 23139 of 2002

W.P.No.23122 of 2002

Between:

The Managing Partner sri B. Venkata reddy S/o Changareddy
M/s. Sri Lakshmi Metal Industries & Constructions,
R/o 12-13-23, street No.5, Tarnaka, Secunderabad

..... PETITIONER

AND

1 The Secretary R&B Department, Government of Andhra Pradesh
Secretariat, Hyderabad
2 The Executive Engineer (R&B), Sangareddy Division,
Sangareddy, Medak District
3 The Chief Engineer (R&B) Roads, erramanzil, Hyderabad
4 the Managing Director APRDC & Ex- Officio, engineer-in-Chief (R&B)
Admn, & EAP earramanzil, Hyderabad
5 The Assistant Pay & Accounts Officer, Medak

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondent in collecting the seigniorage fee from the bills of contracts in accordance with circular memo No. 71505/TA1/RE-1/02 Dt1-1-02 issued by chief Engineer i.e., 3rd respondent herein as illegal arbitrary and in violation of A.P. Minor Mineral Concession rules 1966 and consequently direct the Respondents not to collect any seigniorage fee from the petitioners on the basis of circular memo No. 71505/TA1/RE-1/02 dated 01-01-2002.

Counsel for the Petitioner:MR.M.V.S.SURESH KUMAR

Counsel for the Respondents: Government Pleader for Transport(R&B)

W.P.NO.23123 OF 2002:

Between:

Managing Partner Sri B. Ramesh reddy S/o C.K. Reddy
M/s. R.K. Engineers, r/o 6-3-252/A/5, Flat No. 2 Bhavanam
mansion Sandesh Apartments, yerramanzil, Hyderabad

..... PETITIONER

AND

1 The Secretary R&B, Department, the Government of A.P.,
Secretariat, Hyderabad
2 the Executive Engineer (R&B), Siddipet Division, Siddipet, Medak Dist
3 the Chief Engineer (R&B) Roads, Eaarramanzil, Hyderabad
4 the Managing Director A.P. RDC & Ex-Officio,
engineer-in-chief (R&B) Admn. & EAP., Earamanzil, Hyderabad
5 The Assistant Pay & Accounts Officer, Medak

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondent in collecting the seigniorage fee from the bills of contracts in accordance with circular memo No. 71505/TA1/RE- 1/02 dt 1-1-2002 issued by chief Engineer i.e. 3rd respondent herein as illegal arbitrary and in violation of A.P. Minor mineral concession rules 1966 and consequently direct the respondents not to collect any seigniorage fee from the petitioners on the basis of circular memo No. 71505/TA1/RE-1/02 dated 01-01-2002.

Counsel for the Petitioner:MR.M.V.S.SURESH KUMAR

Counsel for the Respondents: Government Pleader for Transport(R&B)

WRIT PETITION NO : 23139 of 2002

Between:

The Managing Director, M. Venkata Rao rep by its G.P. A. Holder B. Srikantha
Rep by G.P. Holder B. Srikantha Reddy S/o ramesh Reddy M./s. E.C.I Engineering
and construction Co. Ltd., 1-10-4/2/1, Chikoti Gardens, begumpet Hyderabad

..... PETITIONER

AND

1 the Secretary R&B, Department, the Governmnet of A.P. Secretariat, Hyderabad
2 The Executive Engineer (R&B) Siddipet, Division, Siddipet, Medak Dist
3 The Chief Engineer (R&B) Roads, Earramanzil Hyderabad
4 The Managing Director, APRDC & Ex- Officio, engineeer-in-chief (R&B) Admn. & EAP Earamanzil, Hyderabad
5 The Assistant Pay & Accounts Officer, Medak

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondent in collecting the seigniorage fee from the bills of contracts in accordance with circular memo No. 71505/TA1/RE-1/02 dt 1-1-02 issued by chief engineer i.e. 3rd respondent herein as illegal arbitrary and in violation of A.P. Minor mineral concession rules 1966 and consequently direct the respondents not to collect any seigniorage fee from the petitioners on the basis of circular memo NO. 71505/TA1/RE-1/02 dated 01-01-2002

Counsel for the Petitioner:MR. S.KRISHNA MOHAN

Counsel for the Respondents: Government Pleader for Transport(R&B)

The Court made the following <u>COMMON ORDER</u> :

Heard the learned counsel for the petitioners and also the learned Government Pleader for Transport (R&B). At their request, the main writ petitions are taken up for final disposal.

It is represented that the question involved in these writ petitions is squarely covered by a Division Bench judgment of this Court in W.P.No.2054 of 2004 dated 05-02-2004.

Following the said judgment, these writ petitions are allowed directing the respondents not to collect any seigniorage charges from the petitioners for digging ordinary earth in respect of execution of contract work covered under the agreement. However, it is made clear that if the tax is included in the estimate on the earthwork component, it can be deducted as per G.O.Ms.No.23 dated 5.3.1999. No costs.

02-08-2004

GJ

To

1 The Secretary, R&B Department, Government of Andhra Pradesh Secretariat, Hyderabad
2 The Executive Engineer (R&B), Sangareddy Division, Sangareddy, Medak District
3 The Chief Engineer (R&B) Roads, erramanzil, Hyderabad
4 The Managing Director APRDC & Ex- Officio, engineer-in-Chief (R&B) Admn, & EAP earramanzil, Hyderabad
5 The Assistant Pay & Accounts Officer, Medak

6 The Executive Engineer (R&B), Siddipet Division, Siddipet, Medak

Dist.

7 Two C.Cs. to Government Pleader for Transport (R&B), High Court

Buildings, Hyderabad, (OUT)

8 Two C.D. copies.